

FILED

SEP 16 2020

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY DEPUTY

James J. Woodfork,

(Enter the full name of the plaintiff.)

v.

Case No. _____
(Court Clerk will insert case number)

- (1) Rick Whitten,
(2) Tracy Adams,
(3) _____.

(Enter the full name of each defendant. Attach additional sheets as necessary.)

PRO SE PRISONER CIVIL RIGHTS COMPLAINT

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$400 (including a \$350 filing fee and a \$50 administrative fee). The complaint will not be considered filed until the Clerk receives the \$400 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$400 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$50 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, regardless of how the court decides your case.

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. See 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

COMPLAINT

I. Jurisdiction is asserted pursuant to:

✓ 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

___ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

N/A

N/A

N/A

II. State whether you are a:

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Pretrial detainee
☐ Immigration detainee
☐ Civilly committed detainee
☐ Other (please explain) N/A

III. Previous Federal Civil Actions or Appeals

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit:

Plaintiff(s): James Termaine Woodfork

Defendant(s): Rick Whitten and Tracy Adams

The Oklahoma Department of Corrections Official

b. Court and docket number: Western District CIV 20 123 HE

c. Approximate date of filing: 02/12/2020

d. Issues raised: Plaintiff's Fourteenth Amendment and
First ~~2nd~~ Amendment rights was violated

e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): The case was dismissed without prejudice
by Plaintiff request. On May 22nd, 2020

f. Approximate date of disposition: N/A

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: James Jermaine Woodfork

Address: 216 N. Murray Street, Helena, Oklahoma

Inmate No.: 243884

2. Defendant No. 1

Name and official position: Rick Whitten Warden of
Prison

Place of employment and/or residence: James Crabtree
Correctional Center 216 N. Murray St. Helena, OK

How is this person sued? () official capacity, () individual capacity, (☒) both

3. Defendant No. 2

Name and official position: Tracy Adams Mail room
Official

Place of employment and/or residence: James Crabtree
Correctional Center 216 N. Murray St Helena, OK

How is this person sued? () official capacity, () individual capacity, (☒) both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.

- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. **Claim 1:**

(1) List the right that you believe was violated:

The 14th Amendment and 1st Amendment rights. Prison
Officials violated their own rules and by doing so violated
my Constitutional rights.

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Rick Whitten and Tracy Adams both of these
Official

(3) List the supporting facts:

Prison Officials sanction Petitioner without a hearing or Offense Report by permanently restricting correspondence without the opportunity to be heard

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

To order reinstatement of correspondence with Petitioner only Big Brother Ray D. Walker ODoc # 162672. An inmate housed at another facility and to pay for any or all legal copys

2. Claim II:

(1) List the right that you believe was violated:

N/A

N/A

N/A

N/A

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

N/A

N/A

N/A

N/A

(3) List the supporting facts:

N/A
N/A
N/A
N/A

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

N/A
N/A
N/A
N/A

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.


Plaintiff's signature

August 31, 2020
Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 31 day of August, 2020.


Plaintiff's signature

August 31, 2020
Date

(3) SUPPORTING FACTS

On or about May 31, 2019 Petitioner was given permission to correspond with his brother, Roy D. Walker ODOC # 162672, an inmate housed at Cushing Correctional Facility. But now housed at Lawton Correctional Facility. Until September 24, 2019, there was uninterrupted mail privilege between them, and then Petitioner was terminated permanently. The reason given was due to “attempted introduction of contraband (Green Dot numbers)”. However, Petitioner was not notified of his correspondence termination until an attempt to send his brother (Roy D. Walker) a letter out on September 23, 2019, which was returned on September 24, 2019. Petitioner was responding to his brother’s last letter received on September 9, 2019 regarding assisting him on his Commutation Package among other things such as problems that was going at that facility, which made him uncomfortable.

Administrative actor defendant’s had no reasonable cause to terminate Petitioner correspondence with his brother, through no stretch of the imagination can the statement “I really need a dot” indicate that Walkers telling Petitioner to send him a “green dot”. Moreover, does “I’m ready to get out of prison,” indicates an attempt to escape. Which was also stated in the letter sent to Petitioner? (See exhibit L) Furthermore, Petitioner has neither the means nor the ability to send Inmate Walker a “green dot.”

1) It must be noted that no disciplinary hearing action was taken. Petitioner believes this is because the Defendant’s were relying on suspicion rather than facts and realized neither action would be upheld by reviewing authority. Nor did Petitioner have an opportunity to be heard, but was placed on correspondence restriction without an Offense Report or evidence of any rule infraction. (See exhibit I) To sanction Petitioner without

due process creates a violation of Petitioner's 14th Amendment and 1st Amendment rights (a right to be heard).

Petitioner's Fourteenth Amendment claim rests on the assertion that State Actors deprived Petitioner of a recognized Constitutional Procedural law interest (**disciplinary procedure process**) *without due process (a right to be heard)*. Procedural policy interests are created and defined by existing rules or understandings that stem from an independent source such as State law. The Oklahoma Department of Correction Officials has violated their own rules, which are set forth in Operation of Policy **060125**, **030117**, and **030118**. Which are the foundation of the rules and the principal of policies.

These rules prescribed the steps for having a right or duty judicially enforced, as opposed to the law that defines the specific rights themselves.

- EXHIBIT A** Interoffice Memorandum, Correspondence Termination
September 24, 2019
- EXHIBIT B** Request to Staff to Warden Whitten
September 26, 2019
- EXHIBIT C** Offender Grievance to Warden Whitten
October 8, 2019
- EXHIBIT D** Response to Grievance Decision of Relief Denied
October 15, 2019
- EXHIBIT E** Administrative Review Authority Appeal
October 29, 2019
- EXHIBIT- F** Administrative Review Authority Response Affirmed
November 7, 2019, Received November 13, 2019
- EXHIBIT- G** Correspondence Operational Procedure Policy 030117
page 8
- EXHIBIT- H** Disciplinary Operational Procedure Policy 060125
page 6
- EXHIBIT- I** Rule Infractions Operational Procedure Policy 030125
page 4, Attachment A
- EXHIBIT-J** Rule Infractions (Sanctions) Operational Procedure Policy 060125
page 7, Attachment A
- EXHIBIT- K** Envelope Received from Brother Roy Walker
Correspondence Date Received September 9, 2019
- EXHIBIT- L** Letter Received from Brother Roy Walker
Correspondence Date Received September 9, 2019 with Exhibit K
- EXHIBIT- M** Visitors Rules of Conduct/Violations/Sanctions Operational
Procedure Policy 030118 c
- EXHIBIT- N** Warden's Approval to Correspond with Brother Roy Walker
May 31, 2019